<center>**REMARKS**</center>

Applicant respectfully requests reconsideration in view of the following remarks. No claims are amended. Accordingly, claims 1-13 are pending in the application.

I.   Election of Claims

Applicant notes the Examiner's acknowledgment of the election of Group I, claims 1-13 in the reply filed on December 26, 2007 in connection with the restriction requirement dated November 26, 2007. Therefore, claims 14-26 have been withdrawn and claims 1-13 are pending.

II.   Claims Rejected Under 35 U.S.C. § 102

Claims 1, 2 and 5-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,075,996 issued to Simon et al. (hereinafter "Simon"). Applicant respectfully traverses this rejection.

It is axiomatic that to anticipate a claim every element of the claim must be disclosed with a single reference. With respect to claim 1, Applicant respectfully submits that Simon fails to teach or suggest "defining a phase modulation component of a modulation symbol as an integer multiple of fundamental time units." As would be understood by one of ordinary skill in the art, a phase modulation component (PMC) is a pulse from rising edge to falling edge within the symbol. As reflected in claim 1, this pulse must be an integer of multiple of fundamental time units. An FTU, as set forth in paragraph 15, is typically based on the minimum phase slot size for the system. Referring to Figure 4 of Simon, it is evident that t_1 is not an integer multiple of t_2 nor is the time of the base pulse (time between the end of t_1 and the beginning of t_2) an integer multiple of any fundamental time unit. For example, if one were to take two symbols: one having a rising edge at t_0 and a falling edge at w_0 as shown in solid line in Figure 4 and a second symbol with a rising edge at p_1 and a falling edge at w_0. Those two symbols are clearly not integer multiples of minimum phase slot for an existing system. In fact, there is no correlation between the front edge phase modulation, the back edge

phase modulation, also referred to as pulse width modulation and the base pulse with any fundamental time unit as the term is explained and used in Applicant's description and claims. In light of the foregoing, claims 1 and its dependent claims are patentable over the reference of record.

Referring to claim 7, Applicant respectfully submits that <u>Simon</u> does not even teach the population of a symbol period as an integer number of FTU's, much less populating that symbol period with a modulation object having a width that is an integer number of FTU's. Rather, as shown in Figure 4, the symbols of <u>Simon</u> require the lead time and the lag time (also known as setting time) within the symbol period and the modulation object itself does not have a width that is an integer number of FTU's.

Regarding claim 9, Applicant respectfully submits that <u>Simon</u> fails to teach or suggest a plurality of delay elements coupled to a clock to insure transitions in the modulation symbol occur at an integer multiple of a fundamental time unit. Referring again to Figure 4 of <u>Simon</u>, it is quite clear that transitions p_0 and p_1 do not occur as an integer multiple of a fundamental time unit and if one were to presume that p_1 and p_0 occur at an integer multiple of fundamental time unit, then the transition for the falling edge at w_0, w_1, w_2 and w_3 do not occur at an integer multiple of a fundamental time unit. Accordingly, it is clear that there are not delay elements coupled to a clock to ensure transitions in the modulation symbol occur at an integer module of a fundamental time unit as claimed. Thus, claim 9 and its dependent claims are patentable over the reference of record. Withdrawal of the rejection of claims 1-2 and 5-13 is respectfully requested.

III.   Allowable Subject Matter

Applicant respectfully acknowledges with appreciation the Examiner's indication that claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3 and 4 depend from

claim 1 and incorporate the limitations thereof. As previously discussed, claim 1 is not anticipated by the prior art. Thus, for at least the reasons that claims 3 and 4 depend from an allowable base claim, Applicant believes claims 3 and 4 are patentable over the cited art without rewriting the claims in the manner proposed by the Examiner. Accordingly, Applicant respectfully requests consideration and allowance of claims 3 and 4 at the Examiner's earliest convenience.
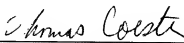
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CONCLUSION

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In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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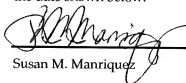
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